

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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:

UNITED STATES OF AMERICA

- v. -

HATEM BEHIRY,

Defendant.

: PRELIMINARY ORDER OF
FORFEITURE/
: MONEY JUDGMENT
: S3 16 Cr. 763 (LGS)

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WHEREAS, on or about February 8, 2018, HATEM BEHIRY (the "defendant"), was charged in a Superseding Indictment, S3 16 Cr. 763 (LGS) (the "Indictment"), with conspiracy to commit health care fraud, mail fraud and wire fraud, in violation of Title 18, United States Code, Section 1349 (Count One); health care fraud, in violation of Title 18, United States Code, Sections 1347 and 2 (Count Two); mail fraud, in violation of Title 18, United States Code, Sections 1341 and 2 (Count Three); wire fraud, in violation of Title 18, United States Code, Sections 1343 and 2 (Count Four); and conspiracy to make false statements relating to health care matters, in violation of Title 18, United States Code, Section 371 (Count Five);

WHEREAS, the Indictment included forfeiture allegations as to Counts One and Five, seeking forfeiture to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461, of any and all

property, real or personal, that constitutes or is derived, directly or indirectly, from proceeds traceable to the commission of the offenses alleged in Counts One and Five of the Indictment;

WHEREAS, the Indictment also included a second forfeiture allegation as to Counts Two through Four, seeking forfeiture to the United States, pursuant to Title 18, United States Code, Section 982(a)(7), of any and all property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of the offenses charged in Counts Two through Four of the Indictment, including but not limited to a sum of United States currency representing the amount of proceeds obtained as a result of the offenses charged in Counts Two through Four of the Indictment;

WHEREAS, on or about May 9, 2019, the defendant was found guilty on Counts One through Five, following a jury trial;

WHEREAS, a sum of money equal to \$808,975 in United States currency represents the proceeds traceable to the commission of the offenses charged in Counts One through Five of the Indictment, and represents the amount of proceeds derived from the offenses charged in Counts One through Five of the Indictment that the defendant personally obtained; and

WHEREAS, as a result of acts and/or omissions of the defendant, the proceeds derived from the offenses charged in Counts

One through Five of the Indictment that the defendant personally obtained cannot be located upon the exercise of due diligence.

IT IS HEREBY ORDERED that:

1. As a result of the offenses charged in Counts One through Five of the Indictment, which the defendant has been found guilty of, a money judgment in the amount of \$808,975 in United States currency (the "Money Judgment"), representing the amount of proceeds derived from the offenses charged in Counts One through Five of the Indictment that the defendant personally obtained and controlled, shall be entered against the defendant.

2. Pursuant to Rule 32.2(b)(4) of the Federal Rules of Criminal Procedure, this Preliminary Order of Forfeiture/Money Judgment is final as to the defendant, HATEM BEHIRY, and shall be deemed part of the sentence of the defendant, and shall be included in the judgment of conviction therewith.

3. All payments on the outstanding Money Judgment shall be made by postal money order, bank or certified check, made payable, in this instance to the "United States Marshals Service", and delivered by mail to the United States Attorney's Office, Southern District of New York, Attn: Money Laundering and Transnational Criminal Enterprises Unit, One St. Andrew's Plaza, New York, New York 10007 and shall indicate the defendant's name and case number.

4. The United States Marshals Service is authorized to deposit the payments on the Money Judgment in the Assets Forfeiture Fund, and the United States shall have clear title to such forfeited property.

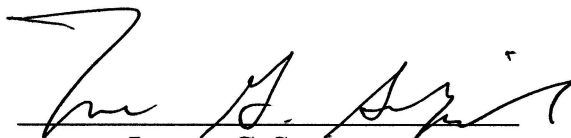
5. Pursuant to 21 U.S.C. § 853(p), the United States is authorized to seek forfeiture of substitute assets of the defendant up to the uncollected amount of the Money Judgment.

6. Pursuant to Rule 32.2(b)(3) of the Federal Rules of Criminal Procedure, the United States Attorney's Office is authorized to conduct any discovery needed to identify, locate or dispose of forfeitable property, including depositions, interrogatories, requests for production of documents and the issuance of subpoenas.

7. The Court shall retain jurisdiction to enforce this Preliminary Order of Forfeiture/Money Judgment, and to amend it as necessary, pursuant to Rule 32.2 of the Federal Rules of Criminal Procedure.

8. The Clerk of the Court shall forward three certified copies of this Preliminary Order of Forfeiture/Money Judgment to Assistant United States Attorney Alexander J. Wilson, Chief of the Money Laundering and Transnational Criminal Enterprises Unit, United States Attorney's Office, One St. Andrew's Plaza, New York, New York 10007.

SO ORDERED:

A handwritten signature in black ink, appearing to read 'Lorna G. Schofield', is written over a horizontal line.

LORNA G. SCHOFIELD
UNITED STATES DISTRICT JUDGE

October 6, 2020
DATE